
BZA-1827
JOSEPH BUMBLEBURG
Variances

STAFF REPORT
June 16, 2011

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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who is also the representative and with consent of owner, is requesting the following variances for a change of use in a portion of an existing commercial building:

1. To reduce the required number of parking spaces from 30 to ~~20~~ 18 (UZO 4-6-3); and
2. To reduce the amount of greenspace to 1,634 sq. ft. (17%) ~~1,310 sq. ft. (14%)~~ instead of the minimum required 1,875 sq. ft. (20%) in the NB zone (UZO 2-12-6)

on property located on the east side of Salisbury, just north of its intersection with US 52—2520 Salisbury Street—in the City of West Lafayette, Wabash 07 (NE) 23-5.

AREA ZONING PATTERNS:

The subject property, zoned NB (Neighborhood Business) is part of a larger area of NB zoning that stretches the north side of US 52 from Salisbury to Nighthawk. Both GB (General Business) and PDNR (Planned Development – Non-residential) zoning exists on both the northwest and southeast corners of US 52 & Salisbury and residential zoning dominates to the north in the Bar Barry Heights and Avondale neighborhoods.

While there have been no parking or greenspace variance requests in the area in the last 10 years, BZA activity has been relatively consistent. Variance requests along Salisbury and US 52 have primarily been for reduced setbacks and increased signage.

AREA LAND USE PATTERNS:

This site is located at the northern edge of commercial properties that line the US 52 corridor; an accounting office separates the subject property from residences to the north. The building is currently home to Quality Copy Shop. A former tenant, a printing business has relocated leaving a vacancy for a proposed carry-out pizza restaurant.

All four corners of US 52 and Salisbury are solidly commercial; uses include a drug store, a drug store, a former drug store and a coffee shop. Other businesses located nearby are a grocery store, food establishments and professional offices.

Farther north along Salisbury, uses become residential interspersed with medical.

TRAFFIC AND TRANSPORTATION:

The site has unrestricted ingress/egress from Salisbury which it shares with its neighbor to the north, the accounting office. Access can also be gained to the site through the drug store's parking lot from any of its three entrances on US 52, Salisbury or

Covington.

All parking is paved and delineated and a raised, rounded curb indicates the subject site's parking lot. However despite no cross-access easement parking agreement, there is nothing to prevent customers from parking at either establishment. No parking variances were requested when the adjacent drug store was constructed (1998), though in the same year two sign variances were denied and two were withdrawn (BZA-1453). West Lafayette staff believes parking is adequate for the drug store.

Parking requirements are based on use; since a new use will move into the space vacated by the print shop, new parking requirements will come into effect. The parking standard for a restaurant is the most intensive at one space per 100 sq. ft. of gross floor area. (In contrast, the former occupant of the space required one per 200 sq. ft.) Of the 4,268 sq. ft. of building, 2,604. ft. is office space (parked at one per 200 sq. ft.—13 spaces) and 1,644 sq. ft. is the proposed restaurant (one per 100 sq. ft.—17), for a total of 30 required spaces; 18 spaces are shown on the site plan.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

The Neighborhood Business zone requires at least 20% greenspace coverage. The lot is 9,375 sq. ft., about 1/5 of an acre and requires 1,875 sq. ft. of greenspace. West Lafayette, which has a greenspace ordinance above and beyond the requirements of the UZO, allows a 20% coverage reduction on lots less than an acre in size. Under West Lafayette's guidelines 1,500 sq. ft. of greenspace is needed; there is currently 750 sq. ft. of greenspace on the lot. Petitioner plans to install 560 additional square feet on the north side of the lot between the building and its neighbor and another 324 sq. ft. obtained after removal of two parking spaces in the right-of-way of Salisbury for a total of 1,634 sq. ft. This amount of greenspace exceeds West Lafayette's requirements, but still requires a variance from UZO standards.

The site is served by public utilities. No buffering is required for this proposed change in use.

STAFF COMMENTS:

Petitioner's intent is to remodel 1,644 sq. ft. of the interior of the existing multi-tenant commercial building for use as a take-out only restaurant with no customer seating or dining-in. This change in use, which also requires a more stringent parking standard, is prompting variance request #1 (parking). Variance request #2 (greenspace) is an attempt to bring the property into conformance with current UZO requirements. Petitioner's original site plan showed 20 parking spaces and 14% greenspace coverage. Staff pointed out that two spaces were located within the right-of-way of Salisbury and could not be counted toward the site's overall requirement. Staff proposed the following solution: remove the two parking spaces in the right-of-way, install more greenspace (adding 324 sq. ft. to the total) and amend the variance requests to 18 spaces instead of the required 24 and 1,624 sq. ft. greenspace (17%) instead of 1,310 sq. ft. (14%). This amendment accomplishes two things, first, it removes two illegal parking spaces from the right-of-way where backing out directly onto Salisbury could be a hazard and

secondly, brings the site into compliance with West Lafayette's greenspace ordinance.

The building was constructed in 1950 according to assessor's records. Parking has remained relatively consistent on this lot; in fact parking looked remarkably similar to what is there today in 1963 from historic aerials. Based on the proposed area of the new restaurant, an additional 6 spaces are needed. However, the addition of parking spaces comes at the loss of greenspace and vice versa.

With that in mind, staff can make the following concession: parking on the site appears adequate for its current and proposed use. Based on multiple year aerials, the lot has never been full and there is sufficient parking in the rear of the building for employees. Staff can make the conclusion that parking will remain sufficient for a restaurant because there is no sit down dining; carry-out dining and delivery promotes a fast turnover of parking. In fact, this type of redevelopment was envisioned in the US 52 Corridor Study: "little new development is anticipated in these areas (US 52 corridor), although redevelopment of some individual sites...is expected."

However, if uses change in the future to a more traditional sit-down dining restaurant, parking requirements must be revisited. Typically, a change in use requires an Improvement Location Permit, but because a carry-out and sit-down restaurant are in the same SIC code, an Improvement Location Permit may not be required, and thus will not trigger a formal review of parking and development standards. To ensure that parking remains sufficient, staff is requiring a recorded commitment that states the use in the space as shown on the submitted site plan will remain a carry-out and delivery restaurant only.

Staff can also concede that petitioner is making an effort to increase greenspace coverage on this limited lot; finding space for an additional 560 sq. ft. of green cover under petitioner's original proposal and adding 324 more sq. ft. by removing two parking spaces is commendable on such a small property. Staff can support a reduced greenspace coverage that still meets West Lafayette's ordinance.

Regarding the ballot items:

1. The Area Plan Commission at its May 18, 2011 meeting determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion that regarding both variance requests:

2. Because both conditions of parking spaces and greenspace coverage have existed on this site for years without incident, granting these variances **WILL NOT** be injurious to the public health, safety, and general welfare of the community. In fact, removing the two parking spaces located within the right-of-way will greatly improve public safety.
3. Use and value of the area adjacent to the property included in the variance requests **WILL NOT** be affected in a substantially adverse manner. With regard to variance

request #1 (parking): while there is a potential for customers to the businesses on site to park on neighboring lots where parking may be more readily available, staff does not anticipate the parking needs of these businesses to be that intense; the recordation of the proposed commitment ensures this for the future. With regard to variance request #2 (greenspace), the commercial property to the north appears from aerial photography to have 0% greenspace coverage and no record of a variance. Petitioner is providing enough greenspace on the subject lot to meet West Lafayette standards.

4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. This site is the smallest among other commercial properties in the area, but is still held to the same parking and greenspace requirements as the lot to the south at nearly two acres. Additionally, according to the assessor's records, this structure is one of the oldest in the area, built in 1950; other surrounding buildings are significantly newer and were developed in compliance with modern zoning requirements.
5. Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance. Increasing either greenspace or parking comes at the expense of the other so that it is not possible for all development standards of the NB zone to be met without the benefit of variance.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. The parking and greenspace situation on this lot has existed since at least 1980. The proposed change in use will not place an undue burden on the existing available parking.

5b. Both variances sought **DO** provide only the minimum relief needed to alleviate the hardship because 18 spaces have existed on site since at least 1980 and the proposed coverage of 17% greenspace provides the maximum amount on site without further reducing parking and meets West Lafayette's ordinance requirement.

STAFF RECOMMENDATION:

Variance request #1 (parking): Approval

Variance request #2 (17% greenspace): Approval

With the following commitment:

To ensure that parking remains sufficient per the staff report and ballot items included in BZA-1827, the use will remain a carry-out/delivery restaurant only (as per the submitted site plan).